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9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN JOSE DIVISION

12 UNITED STATES OF AMERICA,

No. 10CR 808 LHK

13 Plaintiff,

14) STIPULATION AND [PROPOSED]
15) ORDER CONTINUING HEARING TO
16) October 26, 2011 AND EXCLUDING
17) TIME FROM September 14, 2011, TO
18) October 26, 2011 FROM THE SPEEDY
19) TRIAL ACT CALCULATION

v.

JORGE ALEJANDRO HERNANDEZ,

Defendant.

20 The Parties, Bruce Funk and the United States, acting through respective counsel, hereby
21 stipulate, subject to the Court's approval, that the hearing currently set for September 14, 2011 at
22 10 am be vacated, and that the hearing be re-set for October 26, 2011 at 10am. The parties are
23 requesting the continuance of the hearing due to the need for additional time for effective
24 preparation, the need to jointly negotiate a resolution in this matter, for the continuity of counsel,
25 and in light of the fact that this case has been recently re-assigned to Carolyne A. Sanin.

26 The parties stipulate that the time between September 14, 2011 and October 26, 2011, is
27 excluded under the Speedy Trial Act, 18 U.S.C. §3161, and agree that the failure to grant the
28 requested continuance would unreasonably deny defense counsel reasonable time necessary for
effective preparation, taking into account the exercise of due diligence. Finally, the parties agree
that the ends of justice served by granting the requested continuance outweigh the best interest of

1 the public, and the defendant in a speedy trial and in the prompt disposition of criminal cases. 18
2 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

3 DATED: September 8, 2011

4 MELINDA HAAG
5 United States Attorney

6 /s/
7 Carolyne A. Sanin
8 Special Assistant United States Attorney

9 /s/
10 Bruce Funk
11 Attorney for Defendant

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[PROPOSED] ORDER

Based upon the stipulation of the parties, and for good cause shown, the Court HEREBY ORDERS that the hearing in this matter previously set for September 14, 2011 at 10am is vacated, and the matter is continued to October 26, 2011 at 10am. Further, the Court ORDERS that the time between September 14, 2011 and October 26, 2011 is excluded under the Speedy Trial Act, 18 U.S.C. §3161. The court finds that the failure to grant the requested continuance would unreasonably deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Furthermore, the Court finds that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial and in the prompt disposition of criminal cases. The court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

IT IS SO ORDERED.

DATED: 9/12/11

Lucy H. Koh
LUCY H. KOH
UNITED STATES DISTRICT JUDGE